



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,234	01/23/2004	Rajnish Batlaw	5729	8486
25280	7590	07/01/2008		
Legal Department (M-495)			EXAMINER	
P.O. Box 1926			MCDOWELL, SUZANNE E	
Spartanburg, SC 29304				
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			07/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,234

Applicant(s)

BATLAW ET AL.

Examiner

Suzanne E. McDowell

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56, 58, 61-87, 89 and 91-103 is/are pending in the application.
- 4a) Of the above claim(s) 71, 85 and 98 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56, 58, 61-70, 72, 75-84, 86, 87, 89, 91-97, 99-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/8/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 16, 19-22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US Patent No. 3,944,643) in view of Edwards (US Patent No. 3,966,382). Sato ('643) teaches the basic claimed process of injection stretch blow molding of a polypropylene container including, providing a polypropylene based composition having a melt flow index of 7 g/10 min, injecting said composition into a mold to form a preform and removing said preform to be blow molded in a subsequent molding step (see Abstract and col. 5, lines 64- 67). Regarding claims 56, 72, 89, and 99, Sato does not teach a mold fill rate of 5-22 g/sec. However, it is noted that it is well known that the mold fill rate is dependent on the injection pressure, the resin viscosity, the resin temperature, the back-pressure and the sprue cross-section, hence it is submitted that the mold fill rate is a result effective variable. Therefore, it would have been obvious for one of ordinary skill in the art to have used routine

experimentation in the process of Sato ('643) to determine an optimum mold fill rate of 5-22 g/sec because it is well known that the mold fill rate is dependent on the injection pressure, the resin viscosity, the resin temperature, the back-pressure and the sprue cross-section, hence the mold fill rate being a result effective variable.

Further regarding claims 56, 72, 89, and 99, Sato ('643) does not teach the dimensions of the mold gate. Edwards ('382) teaches a mold gate of about 3 mm (see Figures 2-3). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the teachings of Edwards to modify the teachings of Sato, in order to more quickly and easily form the desired finished product. Both Sato and Edwards are in the same field of endeavor.

Further regarding claims 56, 72, 89, and 99, Sato ('643) does not teach a polypropylene preform wall thickness of 1.5-3.5 mm. However, Edwards ('382) teaches that the preform wall thickness depends on the type of resin, heating temperature, injection pressure. Hence, it is submitted that in view of the teachings of Edwards ('382), it would have been obvious for one of ordinary skill in the art to have used routine experimentation to determine an optimum wall thickness in the process of Sato ('643) in view of Edwards ('382) because Edwards ('382) teaches that the preform wall thickness depends on the type of resin, heating temperature, injection pressure, hence teaching that the preform wall thickness is a result effective variable.

In regard to claim 58, Sato ('643) teaches an ethylene-propylene co-polymer (see col. 6, lines 23-24).

Regarding claims 67, 81, 94, and 102, Sato does not specifically teach the wall thickness of the finished container. This is a result-effective variable which depends upon the material used, process conditions, preform wall thickness, etc. It would have been obvious to a person of ordinary skill in the

art to use routine experimentation to modify the teachings of Sato in order to form the desired finished product.

In regard to claims 68-70, 82-84 and 95-97, it is noted that the productivity of a molding process is dependent on the material being processed and the molding parameters, hence being a result effective variable. Therefore, it would have been obvious for one of ordinary skill in the art to have used routine experimentation in the process of Sato ('643) in view of Edwards ('382) to determine an optimum production rate because it is well known that the productivity of a molding process is dependent on the material being processed and the molding parameters, hence being a result effective variable.

Regarding claims 64-66, 78-80, 89, 91-93, 99-101, it is submitted that the container of Sato ('643) in view of Edwards ('382) has a haze ratio of less than about 0.05 haze/mils because the same materials and process are being used as claimed in the instant invention and as such the resulting molded container has the same properties.

4. Claims 61-63, 75-77 and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US Patent No. 3,944,643) in view of Edwards (US Patent No. 3,966,382) and in further view of Schmidt et al. (US2004/0063830 A1). Sato ('643) teaches the basic claimed process as described above. Regarding claims 61-63, 75-77 and 103, Sato ('643) do not teach the use of a nucleating agent. However, the use of a nucleating agent to improve the transparency of the polypropylene molded container is well known as evidenced by Schmidt et al. (US2004/0063830 A1) who teaches the use of DBS as a nucleating agent, specifically 1,3-2,4-dimethylbenzylidene (see paragraph [0004]). Therefore, it would have been obvious for one of ordinary skill in the art to have provided DBS as a nucleating agent as taught by Schmidt et al. (US2004/0063830 A1) in the process of Sato ('643) because Schmidt et al.

(US2004/0063830 A1) teaches that DBS (nucleating agent) provides for improved transparency, hence providing for an improved product.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on Tues, Thurs 8:30-4 and Weds 6-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Suzanne E. McDowell/
Primary Examiner, Art Unit 1791